IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 27TH NOVEMBER 2007 / 6TH AGRAHAYANA 1929

Bail Appl..No. 7217 of 2007()

(IN C.P.NO.44/2007 OF JUDICIAL FIRST CLASS MAGISTRATE COURT – I, KASARGODE)

(CR.NO.2/2005 OF KUMBLA EXCISE RANGE)

PETITIONER/ACCUSED:

KASPEERA PERAVO,
BALATH HOUSE
PAIVELIGE PANCHAYAT, KASARGODE.

BY ADV. SRI.SOJAN MICHEAL

RESPONDENT: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J.

B.A.No.7217 of 2007

Dated this the 27th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner faces indictment under the Kerala Abkari Act. He was allegedly found to be in possession of 10 litres of wash on 13/1/2005. He ran away and was not available for arrest. Investigation is now complete. Final report has already been filed. The petitioner has not so far been arrested in the crime. He apprehends arrest in execution of coercive processes issued by the learned Magistrate after taking cognizance and after registering committal proceedings.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. He had no information or knowledge about the registration of the crime. He is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this bail application is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007